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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 JOHN W. WYSKIVER,
11 Plaintiff,
12 v.
13 CAROLYN W. COLVIN,
14 Commissioner of Social Security,
15 Defendant.

Civil No. 15-cv-597-LAB (DHB)

**ORDER GRANTING
PLAINTIFF'S MOTION TO
PROCEED *IN FORMA PAUPERIS*
[ECF No. 2]**

16 On March 16, 2015, Plaintiff John W. Wyskiver ("Plaintiff") filed a complaint
17 seeking judicial review of Defendant's denial of disability benefits under the Social
18 Security Act. (ECF No. 1.) Plaintiff has also filed a motion for leave to proceed *in forma*
19 *pauperis* ("IFP"). (ECF No. 2.) Plaintiff's IFP motion has been referred to the
20 undersigned Magistrate Judge for resolution. (ECF No. 4.)

21 All parties instituting any civil action, suit or proceeding in a district court of the
22 United States, except an application for writ of habeas corpus, are required to pay a \$350
23 filing fee. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure
24 to prepay the entire fee only if the plaintiff is granted leave to proceed IFP pursuant to 28
25 U.S.C. § 1915(a). *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). Pursuant to
26 28 U.S.C. § 1915(a), a court may authorize the commencement of a suit without
27 prepayment of fees if the plaintiff submits an affidavit, including a statement of all assets,
28 showing that he is unable to pay filing fees. *See* 28 U.S.C. § 1915(a).

1 In the present case, having reviewed Plaintiff's motion and declaration in support
2 of the motion, the Court finds that Plaintiff has made a sufficient showing of inability to
3 pay the required filing fees. *See Rodriguez*, 169 F.3d at 1177. Indeed, Plaintiff indicates
4 he has not been employed since March 2007, he receives \$200 in food stamps per month,
5 and he has a combined \$205 in his checking and savings accounts. (ECF No. 2 at 2.)

6 Any complaint filed pursuant to the IFP provisions of 28 U.S.C. § 1915(a), is also
7 subject to a mandatory and *sua sponte* review and dismissal by the Court, if it finds the
8 complaint is "frivolous, malicious, failing to state a claim upon which relief may be
9 granted, or seeking monetary relief from a defendant immune from such relief." 28
10 U.S.C. § 1915(e)(2)(B); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) ("[T]he
11 provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners."). Having
12 conducted its initial review of Plaintiff's complaint, the Court finds it sufficient to survive
13 the *sua sponte* screening provisions of § 1915(e)(2).

14 Accordingly, for good cause shown, IT IS HEREBY ORDERED as follows:

- 15 1. Plaintiff's motion for leave to proceed IFP is **GRANTED**.
- 16 2. The United States Marshal shall serve a copy of the complaint, summons,
17 and this Order granting Plaintiff leave to proceed IFP upon Defendant as
18 directed by Plaintiff on U.S. Marshal Form 285. All costs of service shall
19 be advanced by the United States.
- 20 3. Defendant shall respond to the Complaint within the time provided by the
21 applicable provisions of the Federal Rules of Civil Procedure.

22 **IT IS SO ORDERED.**

23 DATED: March 19, 2015

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25 DAVID H. BARTICK
26 United States Magistrate Judge
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